which adhere to the view, followed in the majority of jurisdictions, that the lien does not attach until after judgment. *Jackson* v. *Stearns,* 48 Ore. 25, 84 Pac. 198, 5 L. R. A. (N. S.) 390; *Hanna* v. *Island Coal Co.,* 5 Ind. App. 163, 51 Am. St. Rep. 246; *Stearns* v. *Wollenberg,* 51 Ore. 88, 92 Pac. 1079; 14 L. R. A. (N. S.) 1094 and notes. But where the view is taken that the lien attaches the moment suit is instituted there is much stronger reason for not permitting the lien to be defeated by a settlement. This is the view taken in the first principal case, *Payton* v. *Wheeler, supra.* See *Robertson* v. *Shutt,* 72 Ky. (9 Bush) 659. But notwithstanding the view which is generally taken of the nature of the lien, and the protection which is afforded to it, courts are careful, when the occasion demands, to keep in mind the strictly equitable nature of the attorney's interest. "It is in its nature an equity, and in its protection and enforcement a court of law exercises its inherent powers to control its own process, often denominated the equitable powers of the court." *Mosley and Eley* v. *Norman,* 74 Ala. 422. It is merely a claim to an equitable interference of the court to have that judgment held as security. *Barker* v. *St. Quentin,* 12 M. & W. 451. See *Cairo R. Co.* v. *Tackney,* 78 Ill. 116. At best an inchoate right, it is too contingent an interest to be subject to garnishment. See the second principal case, *Modlin* v. *Smith, supra.* ROOD, GARNISHMENT, § 118. And this would appear to be the necessary view even in those jurisdictions which hold garnishment to be an equitable proceeding.

BILLS AND NOTES—BILLS OF EXCHANGE—FORM.—A writing in the following form "Spiketon, Wash., ————, 1911. Coast Coal Co. You are hereby authorized to deduct One Dollar per month from my monthly pay, to pay for the services of Dr. Sheets as mine doctor. Signed,————," held to be a bill of exchange within the meaning of the statute requiring an acceptance by the coal company before becoming effectual for any purpose whatever. *Sheets* v. *Coast Coal Co. et al.,* (Wash., 1913) 133 Pac. 433.

The decision is contrary not only to the great weight of authority, but to express terms of the statute upon which it is based. By that statute, which is but a legislative enactment of the definition of a bill found in the law merchant, an instrument to be a bill of exchange must: 1, contain an unconditional order; 2, to pay on demand, at a fixed or determinable future time; 3, a sum certain in money; 4, to order or to bearer. First, To have an order there must be some expression embodying a mandatory direction; authority given to pay an amount is not a bill. 1 DANIEL, NEG. INSTR., (5th Ed.) § 35. An order is conditional if payment is dependent upon a contingency or is to be made out of a particular fund, and not upon the general credit of the drawer. *Glidden* v. *McKinstrey,* 28 Ala. 408; *Henry* v. *Hazen,* 5 Ark. 401; *Mills* v. *Kuhhendall,* 2 Blackf. (Ind.) 47; *Strader* v. *Batchlor,* 47 Ky. 168; *Knowlton* v. *Cooley,* 102 Mass. 233; *Smith* v. *Wood,* 1 N. J. Eq. 74; *Morton* v. *Naylor,* 1 Hill (N. Y.) 583; *Gates* v. *Eno,* 4 Hun. 96; *Worden* v. *Dodge,* 4 Denio 159; *Andrews* v. *Harvey,* 39 Tex. 123. Second, A draft payable at an indefinite period of time is not a bill of exchange, *Smith* v. *Wood, supra*; nor where payable on a contingency that may never happen. *Brooks* v. *Hargreaves,* 21 Mich. 254; *Chicago Bank* v. *Trust Co.,* 190 Ill. 404; *Kelley* v.

Hemingway, 13 Ill. 605; *Tradesman Natl. Bank* v. *Green,* 57 Md. 602; *Sackett* v. *Palmer,* 25 Barb. (N. Y.) 179. Third, The sum is uncertain if it is to be determined by future sales or collections. *Legro* v. *Staples,* 16 Me. 252; *Fiske* v. *Witt,* 22 Pick. (Mass.) 83; *Jackson* v. *Tilgham,* 1 Miles (Pa.) 31. Fourth, An instrument payable to one and his assigns or to one alone, where that one is a real person, is not payable to order or to bearer. *Zander* v. *N. Y. Security Co.,* 81 N. Y. Supp. 1151; *Westberg* v. *Chicago L. & Co.,* 117 Wis. 589. It will thus be seen that the instrument in the principal case does not conform to the requisites of a bill of exchange as defined by the statute either as to time of payment, or the persons to whom it is payable. It is only an equitable assignment of wages that are to accrue in the future, and when they have accrued, the assignee, if notice of the assignment be given to the Coal Company, should be entitled to recover the fund. *Morton* v. *Naylor, supra.*

BILLS AND NOTES—HOLDER IN DUE COURSE—DEFENSES—INTOXICATION.—Under Negotiable Instruments Law (§ 1676-25, 1676-27) providing that a holder in due course holds the instrument free from any defect in title of prior parties, except where the title of the person negotiating the instrument is void on the ground of fraud, duress or other unlawful means, a holder in due course takes no title where the note was absolutely void in its inception because of the intoxication of the maker, destroying the rational faculties of the mind. *Green et al.* v. *Gunsten et al.,* (Wis., 1913) 142 N. W. 261.

On the other hand, it has been held that as against a bona fide holder intoxication is no defense. JOYCE, DEFENSES OF COM. PAPER, § 69; *State Bank* v. *McCoy,* 69 Pa. St. 204; *McSparron* v. *Neeley,* 91 Pa. St. 18; *Smith* v. *Williamson,* 8 Utah, 219, 30 Pac. 753. The reason for the rule announced in the principal case is that there can be no valid contract where there is no mind capable of contracting; that a person so intoxicated as to be deprived of reasoning faculties is, like an insane person, incapable of contracting, hence the note was void in its inception; and that the indorsee is charged with constructive notice of the mental incapacity of the maker of the note as in the case where insanity is pleaded. And the defense of insanity is recognized even by the courts that repudiate the defense of intoxication. See *Moore* v. *Kershey,* 90 Pa. St. 196. The difference between the two cases is pointed out in the case of *State Bank* v. *McCoy,* supra, in substance, that insanity is a permanent state of mind, not voluntarily produced, while drunkeness is a temporary state of mind, voluntarily produced; and that when men voluntarily deprive themselves of the use of reason, the law may refuse to treat them with the same tenderness that it does those unfortunate beings who are deprived of their understanding by some providential dispensation; and it may properly hold them to a different measure of responsibility for the consequence of their acts. On the question of making a distinction between the various degrees of intoxication, see *Caulkins* v. *Fry,* 35 Conn. 170, and *Miller* v. *Finley,* 26 Mich. 248, 12 Am. Rep. 306. The reasoning of the cases holding contrary to the rule of the principal case seems more in accord with justice, for it is unfair and at the same time very inconvenient to the public to hold